

IN THE HIGH COURT OF JUDICATURE AT PATNA

Cr.Misc. No.21908 of 2007

THE STATE OF BIHAR..... Petitioner

Versus

MD.NAYEEM @ NAYEEM Opposite Party

For the Petitioner : Mr. R.B. Roy 'Raman', A.P.P.

For the O.P. : M/S Manoj Kumar No.5,Adv.

Arvind Kumar Mouar,Adv.

10. 5.12.2008. This application for cancellation of bail has been initiated at the instance of this Court.

Heard the learned counsel for the State as well as the opposite party.

It appears from the record that the opposite party Md. Nayeem is one of the accused in Sessions Trial No.323 of 2006 registered under section 396 I.P.C., which is pending in the court of A.D.J.I, Patna. He was granted regular bail by the High Court vide order dated 3.1.2007 passed in Cr. Misc. No.49288 of 2006. However, in course of hearing of bail matter of another accused, namely, Md. Hamid Ansari in Cr. Misc.No.15745 of 2007, it was transpired that Md. Nayeem obtained bail after canceling/suppressing certain facts i.e. evidence of informant (P.W.6).

Photo copy of deposition of P.W.6 Laldeo Prasad is on the record, which is at flag 'B'. He was examined in chief on 23.9.2006 and cross-examined by this accused on 27.9.2006. Cr. Misc. No.49288 of 2006 was filed by the accused/opposite party on 2.11.2006. In paragraph-9 of the petition for bail, examination of P.W.10 was suppressed purposely and it was mentioned that only nine witnesses had been examined out of them none had supported the prosecution

story or disclosed the name of this petitioner Md. Nayeem. Accordingly, the court relying on the statement of the petitioner granted bail vide impugned order dated 3.1.2007.

However, photo copy of deposition of P.W.10 would go to show that the informant has named this accused as one of the assailants of the victim Dharmendra. The evidence of informant is based on oral dying declaration of victim Dharmendra.

From above facts, it is quite apparent that the opposite party Md. Nayeem obtained bail suppressing the deposition of P.W.10. Accordingly, the bail so granted to Md. Nayeem vide order dated 3.1.2007 passed in Cr. Misc. No.49288 of 2006 is hereby cancelled. He is directed to surrender before the trial court at once, failing which the court below shall take coercive steps for his early arrest with intimation to this Court.

N.H./

(Ghanshyam Prasad)

